



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 14, 1998

Mr. Steven R. Bird
City of Childress
City Hall
P.O. Box 1087
Childress, Texas 79201

OR98-3090

Dear Mr. Bird:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120453.

The City of Childress (the "city") received a request for the names and current locations of the final six candidates for the position of City Manager. You have supplied the resumes of these individuals as responsive to this request. You contend that this information is excepted from disclosure by section 552.101 of the Government Code in conjunction with a right of privacy. You also raise section 552.024 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Information must be withheld from required public disclosure under common-law privacy if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683; *see also*, Open Records Decision Nos. 470 (1987) (concluding that fact that a person broke out in hives as a result of severe emotional distress is excepted by common-law privacy), 455 (1987) (concluding that kinds of prescription drugs a person is taking are protected by common-law privacy), 422 (1984) (concluding that details of self-inflicted injuries are presumed protected by common-law privacy) 343 (1982) (concluding that information regarding drug overdoses, acute alcohol intoxication, obstetrical/gynecological illnesses, convulsions/seizures, or emotional/mental distress is protected by common-law privacy).

The identity or location of an applicant for public employment meets neither prong of the *Industrial Foundation* test. This information is therefore not protected by a right of privacy. Further, applicants for employment and private citizens are not within the ambit of section 552.024. Open Records Decision No. 455 (1987) (construing statutory predecessor to 552.024). Therefore, unless the applicants are current or former public servants who have opted for non-disclosure of personal information, the subject information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 120453

Enclosures: Submitted documents

cc: Mr. David Stephens
Amarillo Globe-News
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(w/o enclosures)